

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/062,602	LIBANATI ET AL.	
	Examiner	Art Unit	
	Frederick F. Krass	1614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE request dated 11/5/04.
2. ☒ The allowed claim(s) is/are 1-9, 11 and 12.
3. ☒ The drawings filed on 31 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>1-19-05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                        |
|   | 9. <input type="checkbox"/> Other _____   |

### Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Bunch on 1-19-05.

The following changes have been made:

1) As the first line of the specification there has been inserted --- This application claims the benefit of United States Provisional Application 60/265,398, filed 01/31/2001. ---

2) Non-elected claims 13-17 have been canceled without prejudice thereto.

3) Claim 1, first line, immediately after "comprising" at the end of the line there has been inserted --- a ---

4) Claims 1 and 6, last line of each claim, in each instance the word "gels" has been singularized.

5) Claims 1 and 6, last line of each claim, in each instance as the last word before the period ending the claim there has been inserted --- abrasives ---

6) Claim 2, last line, immediately before the period ending the claim there has been inserted --- microns ---

Art Unit: 1614

7) Claim 6, first line, immediately before "orally" there has been inserted --- , by weight of said composition, of an ---

8) Claim 6, second line, immediately before "amorphous" there has been inserted --- an ---

9) Claim 8, last line, immediately before the period ending the claim there has been inserted --- %

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### **Reasons for Allowance**

The following is an examiner's statement of reasons for allowance:

The examiner agrees with Applicant's arguments substantially as written, and adds the following only for emphasis.

As argued by Applicant, the closest prior art of record, Durga et al (USP 6,290,933), does not disclose mixtures of at least two different silica gels. Instead, it at best suggests mixtures of precipitated silicas and silica gels at col. 4, lines 20-36. Such mixtures are also used in the working examples of the patent.

The use of a mixture of silica gels is, however, only one difference between the prior art and the instant claims. The prior art also fails to specify the instantly claimed volatile contents and pH values, which are also important features of the instant invention. These pH values and volatile contents are a consequence of the particular washing, milling and drying conditions used to prepare the instant abrasives, which necessitate preparation of different silica gels. See for example pages 7 and 8 of the instant specification. It is this combination of specific features which appears to provide the unexpected results discussed in Applicant's response.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1614

### Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick F. Krass whose telephone number is 571-272-0580. The examiner's schedule is as follows:

Monday: 10:30AM- 7PM;  
Tuesday: 10:30AM - 7PM;  
Wednesday: off;  
Thursday: 10:30AM- 7PM; and  
Friday: 10:30AM-7PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached at 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frederick Krass  
Primary Examiner  
Art Unit 1614

